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MEMORANDUM

DATE: January 3, 2017

TO: Washington State Examining Board of Psychology

FROM:  Jack E. Bucknell, Assistant Attorney General
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SUBJECT: **Telepsychology**

I. QUESTION

Does the absence of an Examining Board of Psychology (board) rule that specifically addresses the delivery of psychological services using telecommunications technologies (i.e., “telepsychology”) bar licensed psychologists from using telecommunications technologies to practice psychology?

II. SHORT ANSWER

No. The absence of a board rule that specifically addresses telepsychology does not bar licensed psychologists from using telecommunications technologies to deliver psychological services because telepsychology is included within the practice of psychology as defined in RCW 18.83.010(1)(a)(b) and (c). Accordingly, licensed psychologists may deliver psychological services using telecommunications technologies in a manner consistent with existing statutes and rules that govern the profession.

III. DISCUSSION

Advances in technology and changes in how people communicate have made the delivery of professional services using telecommunications technologies-such as telephone, interactive video, email, chat, text, and any number of internet based communication platforms-routine. The board refers to the use of telecommunications technologies to deliver psychological services as “telepsychology.”

Over the past few years, the board received numerous inquiries and questions about the regulation of telepsychology. In response to those questions and in the spirit of informing the

ATTORNEY GENERAL OF WASHINGTON

Washington State Examining Board of Psychology
January 3, 2017
Page 2

public of its current opinion¹ about telepsychology, the board issued a two page Telepsychology Guideline (guideline) in January 2016 to advise that “telepsychology will be regulated consistent with existing statutes and rules in Washington State.”² As briefly discussed below, since telepsychology is included within the practice of psychology and covered by existing statutes and rules, the board need not adopt a telepsychology rule for psychologists to practice telepsychology.

The Legislature authorized the board to issue qualified applicants a general license to practice psychology in Washington State. RCW 18.83.070; RCW 18.83.170. The “practice of psychology” is defined broadly and it inherently allows licensed psychologists the freedom to develop specialized practices³ without seeking permission from the board. See RCW 18.83.010(1)(a)(b)(c).⁴ The Legislature also required the board to adopt a code of ethics for psychologists and to establish rules governing mandatory continuing education. RCW 18.83.050; RCW 18.83.090.

Pursuant to the Legislative mandates, the board adopted general rules that apply to the practice of psychology no matter in what area a psychologist specializes or how a psychologist delivers services. See WAC 246-924-351 (Rules of Ethical Conduct); WAC 246-924-353 (Competence); WAC 246-924-359 (Client Welfare); and WAC 246-924-363 (Protecting Confidentiality of Clients).⁵ Violation of these standards could subject a psychologist to discipline for unprofessional conduct, which makes psychologists accountable for their actions, safeguards against practice outside of areas of minimal competence, and protects client confidentiality. See RCW 18.83.121; RCW 18.130.180(7). Further, the board adopted rules that require licensed psychologists to complete a minimum of 60 hours of continuing education every three years,

¹ RCW 34.05.230(1) encourages, but does not require, agencies to advise the public of its current opinions, approaches, and likely courses of action.

² *Examining Board of Psychology Telepsychology Guideline*:
<http://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/Psychologist/PoliciesandGuidelines>

³ The American Psychological Association recognizes 15 specialties and five proficiencies in professional psychology. See: <http://www.apa.org/ed/graduate/specialize/recognized.aspx>

⁴ RCW 18.83.010, Definitions:

(1) The “practice of psychology” means the observation, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures for the purposes of preventing or eliminating symptomatic or maladaptive behavior and promoting mental and behavioral health. It includes, but is not limited to, providing the following services to individuals, families, groups, organizations, and the public, whether or not payment is received for services rendered:

(a) Psychological measurement, assessment, and evaluation by means of psychological, neuropsychological, and psychoeducational testing;

(b) Diagnosis and treatment of mental, emotional, and behavioral disorders, and psychological aspects of illness, injury, and disability; and

(c) Counseling and guidance, psychotherapeutic techniques, remediation, health promotion, and consultation within the context of established psychological principles and theories.

⁵ This is not an exhaustive list of rules of general applicability.

ATTORNEY GENERAL OF WASHINGTON

Washington State Examining Board of Psychology
January 3, 2017
Page 3

with the ultimate aim of ensuring the highest quality of professional work. WACs 246-924-180 and -190.

The board's guideline correctly recognizes "telepsychology" as included within the broad definition of practice of psychology rather than as a separate discipline. Accordingly, the guideline rightly states that licensed psychologists using telepsychology will be held to the *same standard of care as psychologists providing services in-person*, including the requirement to meet technical, clinical, confidentiality, and ethical standards required by law.

Drawing from work done by the American Psychological Association and recognizing that technological changes occur rapidly, the board's guideline provides technologically neutral, general principles rather than focusing on any specific telecommunications technology (which may soon become outdated, obsolete or unduly interfere with decisions that can be made by psychologists in consultation with other professionals and with their clients). The board's guideline highlights some elements of the standard of care as applied to telepsychology, which include:

- Psychologists [should] take reasonable steps to ensure they are competent with both the technologies used and the potential impact of the use of telepsychology on clients/patients and auxiliary staff.
- Psychologists [should] obtain and document informed consent that specifically addresses the concerns that may be related to the telepsychology services they provide. Such informed consent should be developed so it is reasonably understandable to clients/patients. Informed consent may include, but is not limited to:
 - a.) The manner in which the psychologist and client/patient will use particular telecommunications technologies, the boundaries that will be established and observed, and procedures for responding to electronic communications from clients/patients;
 - b.) Issues and potential risks surrounding confidentiality and security of client/patient information when particular telecommunication technologies are used (e.g., potential for decreased expectation of confidentiality if certain technologies are used);
 - c.) Limitations on the availability and/or appropriateness of specific telepsychology services that may be hindered as a result of the services being offered remotely.
- Psychologists practicing telepsychology [should] take reasonable steps to protect and maintain the confidentiality of data and information relating to their clients/patients. When necessary, psychologists consult with technology experts to augment their knowledge of telecommunications technologies in order to apply adequate security measures in their practices that will protect and maintain the confidentiality of data and information related to their patients/clients.

ATTORNEY GENERAL OF WASHINGTON

Washington State Examining Board of Psychology

January 3, 2017

Page 4

The application of these standards could present novel challenges in the context of telepsychology, but the standards themselves (e.g., competence, informed consent, and protecting patient confidences) already exist within chapter 18.83 RCW and the board's rules and apply to the practice of psychology no matter how services are delivered. No rulemaking is required under chapter 34.05 RCW because the board's guideline in no way purports to change any of the standards or rules that relate to the practice of psychology.

IV. CONCLUSION

The board's telepsychology guideline sufficiently advises the public that telepsychology is included within the practice of psychology and will be regulated consistent with existing statutes and rules governing the practice of psychology in Washington State. The absence of a board rule that specifically addresses telepsychology does not bar licensed psychologists from using telecommunications technologies to deliver psychological services. As with the use of any tool or practice in any specialized area, it is incumbent on licensed psychologists who use telecommunications technologies to deliver services to be fully responsible for their professional actions and limit practice to the areas for which they have adequate education, training, and experience. RCW 18.83.121; WAC 246-924-351; WAC 246-924-353.

The information in this memo is my own and is not the opinion of the Attorney General's Office.